

7 FAM 420 PRETRIAL CONFINEMENT

(TL:CON-11 10-30-84)

7 FAM 421 REGULAR VISITATION

A citizen in pretrial confinement must be visited regularly by the consular officer. Each post should establish a regular schedule of visits to each prisoner.

7 FAM 421.1 Regularly Scheduled Visits

Between July 1976 and August 1978 the Department required that each institution at which a U.S. citizen was incarcerated in a foreign country be visited at least once monthly. This global requirement was modified, effective August 17, 1978, permitting Chiefs of Mission to determine the interval between regularly scheduled visits to U.S. citizen prisoners, and thus allowing each Chief of Mission to decide how best to use available resources to achieve the Mission's overall objectives. In granting Chiefs of Mission this discretion, the Department in no way intended to diminish essential services to Americans incarcerated abroad. On the contrary, it was envisaged that in some countries regularly scheduled post-sentencing prison visits at intervals longer than a month would permit earlier initial visits and more frequent visits during the pre-trial stage of a prisoner's confinement when the incarcerated citizen is most in need of advice and assistance.

7 FAM 421.2 Reporting

Posts must telegraph a brief report to the Department on each visit. Separate reports must be submitted on each prisoner. Visiting consular officers should make adequate notes of prisoner interviews for inclusion in the post's file on each individual case. Officers are cautioned against including in post files or reporting to the Department any uncalled for or gratuitous remarks or comments that might prove embarrassing if required to be released later under the Privacy or Freedom of Information Acts.

7 FAM 421.3 Purposes

The principal purposes of regularly scheduled visitations are as follows:

- (1) To monitor the well-being of incarcerated U.S. citizens;
- (2) To ensure that U.S. citizen inmates are being treated humanely in accordance with conventions in force and commonly accepted international standards;
- (3) To ascertain whether attorneys retained by U.S. inmates are in contact with them and rendering them reasonably adequate counsel and other legal services;
- (4) To permit consular officers to keep up to date on the prisoners' situation, so as to keep the Department currently informed, thus permitting the Department to reply in a timely manner to inquiries from relatives and members of Congress;
- (5) To keep the prisoners informed on any developments that may relate to their cases: that is, to pass on information obtained from defense counsels, prosecutors, judges, and any developments on the status of bilateral treaties relating to prisoner matters;
- (6) To discover any U.S. citizens whose arrest and imprisonment have not been reported by local officials or other sources;

(7) To ascertain if any U.S. prisoners may need emergency medical care or supplementary diet assistance under the EMDA program;

(8) To impress upon host country prison directors that the U.S. Government is sincerely interested in the welfare of its incarcerated citizens, no matter what the charges against them might be or of what they were convicted;

(9) To maintain liaison and nurture rapport and a cooperative relationship with host country prison directors, judges, law enforcement officials, and prosecutors; and,

(10) To let the prisoners themselves know that their government has a sincere interest in their physical and emotional well-being.

(11) Consular officers should frequently consult the checklist on adequacy of consular assistance to American prisoners abroad (see 7 FAM 421 Exhibit 421.3).

7 FAM 422 FUNDS

Where local conditions make it necessary, the consular officer should be prepared to receive money on behalf of the prisoner under OCS/TRUST procedures as set forth in "Financial and Medical Assistance Services for U.S. Citizens Abroad," chapter 7 FAM 300 (see section 7 FAM 330).

7 FAM 422.1 Amounts

The amounts transmitted will ordinarily be small, such as those suitable for prisoners' supplemental living expenses. From time to time, however, it may be necessary for the prisoner to receive larger amounts for legal fees, fines, and related expenses. Posts should not handle funds grossly in excess of those reasonable for prisoners' legitimate needs.

7 FAM 422.2 Manner of Transmission

Funds may be transferred to the Department (CA/OCS/EMR) by any of the following means: postal money order, certified check, or cashier's check; wire transfer from a commercial bank to the American Security Bank branch in the Department of State; or by Western Union. The Department cannot accept cash or personal checks. Depositors should be directed to contact CA/OCS/EMR for additional information on transfer of funds (see section 7 FAM 334.1 c).

7 FAM 422.3 Format of Funds Submission

All money orders, bank drafts, and certified checks must be made payable to the Department of State, and must include (a) name of the prisoner; (b) name of the post; and (c) name and address of the depositor. Upon receipt the Department (CA/OCS/EMR) deposits these funds with the U.S. Treasury and cables the appropriate post to disburse that amount of money, or credit it to the prisoner.

7 FAM 422.4 Service Charge

Effective February 12, 1981, Congress requires that the Department of State charge a US \$15.00 service/handling fee once each fiscal year on a trust account established for an individual within a consular district. This fee is deducted from the initial deposit received by the Department for the individual. It also is deducted if the prisoner transfers to another consular district (see section 7 FAM 331).

7 FAM 422.5 Illegal Use and Accountability

Under no circumstances should consular officers allow themselves to be drawn into any scheme involving bribery or other illegal use of funds. Officers handling funds on behalf of prisoners should keep strict accounts to avoid misunderstandings or unjust accusations.

7 FAM 423 THE CASE WORKER CONCEPT

To the extent possible the same consular officer should visit a prisoner regularly. There are several advantages to such a “case worker” approach. The consular officer becomes thoroughly familiar with the specific facts and problems of the prisoner's situation. This should enable the officer to become responsive in the maximum degree to the prisoner's needs, not only for small services, but also for effective liaison with attorneys, court officials, and prosecutors. Furthermore, the officer will be able to respond promptly and competently to requests for information from the Department, host government officials, and the prisoner's relatives. Few things are more discouraging to a prisoner than to detail an urgent need to the visiting consular officer, only to have a different consular officer on the next visit disclaim all knowledge of the matter. The “case worker” principle will also assist each post to estimate the number of hours necessary to conduct its regular prisoner visitation schedule.

7 FAM 424 THROUGH 429 UNASSIGNED

7 FAM 421 Exhibit 421.3

Sample of a Checklist on Consular Assistance to U.S. Citizens Arrested Abroad

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Sample of a Checklist on Consular Assistance to U.S. Citizens Arrested Abroad

CHECKLIST ON CONSULAR ASSISTANCE TO U.S. CITIZENS ARRESTED ABROAD			Name of Post American Consulate, RECIFE, BRAZIL
F I R S T A S S I S T A N C E	YES	NO	Mark Boxes (X) at Left to Reflect Consular Assistance Provided at Post
	X		1. Consular officer visits arrested citizen as soon as possible after receipt of notification of the arrest, preferably within 48 hours.
	X		2. Arrestee is contacted promptly by telephone, if a consular visit within 48 hours is not possible.
	X		3. Consular officer gives arrestee a list of attorneys and a fact sheet on local legal and judicial systems on initial visit.
	X		4. Officer tries to obtain from arrestee a waiver of the arrestee's rights under the Privacy Act and the information needed to complete all items on the initial arrest report.
I M M E D I A T E F O L L O W U P	X		5. First arrest report is submitted promptly to Department (CA/OCS/EMR), preferably within 24 hours of first contact with arrestee, even when all data on the format are not yet available.
	X		6. Data missing from first arrest report are submitted as soon as the information becomes available.
	X		7. Consular officer acts as liaison between the prisoner and the prisoner's relatives, when needed.
	X		8. A protest is lodged with local officials if prompt consular access to a prisoner is denied.
	X		9. A similar protest is lodged if it is learned that prompt prisoner access to a consular officer has been denied.
	X		10. Consular officer tries to ensure that local officials account for and properly safeguard personal items taken from U.S. citizen prisoner at the time of arrest.
	X		11. Consular officer tries to verify or refute allegations of maltreatment, retaining a local physician for this purpose, if needed.
	X		12. Consular officer uses EMDA funds for medical exam, if necessary.
C O N T I N U E D R E P O R T I N G	X		13. With prisoner's consent, officer protests each substantiated case of maltreatment at appropriate level of host government and requests that an investigation and report be made.
	X		14. Consular officer follows request for investigation and escalates request to a higher level if lower level provides no satisfactory response.
	X		15. Post promptly informs Department of significant developments in all arrest cases (see Exhibit 416.1).
	X		16. Post promptly and fully informs Department of any special circumstances about arrests in the host country.
	X		17. Post responds promptly and adequately to inquiries about arrest cases from the Department, relatives, and the U.S. Congress.

Sample of a Checklist on Consular Assistance to U.S. Citizens Arrested Abroad — Continued

	YES	NO	Mark Boxes (X) at Left to Reflect Consular Assistance Provided at Post
C O N T I N U E D F O L L O W U P A C T I V I T I E S			18. Consular officer attempts to assure that the following care, available to U.S. citizen prisoner, meets at least minimally acceptable international standards:
	X		18a. Food
	X		18b. Shelter
	X		18c. Clothing
	X		18d. Medical care
	X		18e. Dental care.
	X		19. Post provides assistance under the EMDA program if food and medical services are not adequate.
	X		20. Consular officer tries to insure that the U.S. citizen prisoner receives an early and fair trial, according to due process, and that the prisoner is sentenced within the deadline stipulated by local law.
	X		21. Without intervening in attorney/client relationship, consular officer tries to insure that the prisoner's attorney provides honest and competent counsel.
	X		22. Consular officer protests any unjust or inhumane prison conditions affecting a U.S. citizen prisoner or maltreatment of the prisoner by prison officials.
			23. Consular officer provides liaison between prisoner and prison officials over justifiable complaints about:
	X		23a. Food
	X		23b. Overcrowded conditions
	X		23c. Substandard medical care
	X		23d. Substandard dental care
	X		23e. Time-off credits for work or good behavior.
			24. Consular officer tries to insure that there is no discrimination against U.S. citizen prisoner in:
	X		24a. Medical care
	X		24b. Dental care
		N/A	24c. Job opportunities
	X		24d. Extortion for common privileges
	X		24e. Trial delays
	X		24f. Excessive attorney fees.
			25. Consular officer, as a humanitarian service:
	X		25a. Provides U.S. citizen prisoner books, magazines, dietary supplements (including fresh fruits).
		25b. Solicits assistance of local American groups for this purpose.	

Sample of a Checklist on Consular Assistance to U.S. Citizens Arrested Abroad — Continued

	YES	NO	Mark Boxes (X) at Left to Reflect Consular Assistance Provided at Post
F O S T E R I N G F A V O R A B L E	X		26. Consular officer is well informed on local laws and judicial procedures.
	X		27. Post personnel are aware that Departmental authorization can be obtained to retain a local attorney to provide information on local laws and judicial procedures.
	X		28. Post personnel know whether the host country is a signatory to the Vienna Convention on consular relations.
	X		29. Consular personnel are thoroughly familiar with Article 36 of the Vienna Convention on consular relations.
	X		30. Consular personnel are familiar with the "arrest Articles" of any bilateral consular convention of the host country with the United States.
	X		31. Consular officer tries to cultivate rapport and cooperative working relationships with law enforcement officials, prosecutors, prison directors, and judges.
	X		32. Consular officer visits regularly all prisons where U.S. citizens are incarcerated.
			33. If not, why not?
	X		34. On regularly scheduled visits consular officer tries to identify other U.S. citizen prisoners about whom no notification was given.
	C L I M A T E	X	
X			36. There is a satisfactory balance between post's human resources assigned to arrest cases and to other functions.
F O R	X		37. Officers assigned to sections other than the consular section participate as needed in arrest assistance, as, for example, in making an occasional prison visit.
		X	38. Post policy requires nonconsular officer to participate in occasional prison visitation.
A R R E S T A S S I S T A N C E			39. The attitude of the consular officer toward monitoring and servicing arrest cases is:
			39a. Negative
			39b. Reluctant
			39c. Minimally acceptable
			39d. Adequate
			39e. Positive
	X		39f. Responsive.
		40. The attitude of other officers at post toward arrest cases is:	
		40a. Reluctant	
X		40b. Adequate	
		40c. Responsive.	

